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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/753,491

01/09/2004

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02997.002328.

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7590

05/27/2009

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EXAMINER

LAI, MICHAEL C

ART UNIT

PAPER NUMBER

2457

MAIL DATE

DELIVERY MODE

05/27/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/753,491	Applicant(s) HALNA DU FRETAY ET AL.	
	Examiner MICHAEL C. LAI	Art Unit 2457	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-15, 29, 32-44, 58, 60 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4, 7-15, 29, 32, 35-44, 58, 60 is/are rejected.
- 7) ☒ Claim(s) 5-6, 33-34 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is responsive to communication filed on 3/6/2009.

Claims 4-15, 29, 32-44, 58, and 60 have been examined

Response to Amendment

2. The examiner has acknowledged the amended specification, abstract, claims 4-15, 29, 32-44, 58, new claim 60, and cancelled claims 1-3, 30, and 31. The objections to the specification and abstract have been corrected and withdrawn accordingly. The 112 second paragraph rejections to claims 4, 32, and 58 have been corrected and withdrawn accordingly. Claims 4-15, 29, 32-44, 58, and 60 are pending.

Response to Arguments

3. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

4. Claim 60 is objected to because of the following informalities: In line 11, "the second packet" should be "each second packet"; in line 19, "the new access level" should be "a new access level".
5. Claim 29 is objected to because of the following informalities: In lines 14-15, "the second packet" should be "each second packet".

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 60, 4, and 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 60 recites the limitation "forming **each second packet** by including **one or more** first packets or parts of a first packet associated with a given access level in **the second packet**" in lines 10-11. In the case where there are multiple first packets each with different access level, it is unclear how "a given access level in the second packet" is given, since line 8 recites the limitation "associating an access level with **each first packet**..."

Claim 4 recites the limitation "the modified size of the preceding second packet" in lines 2-3. Claim 4 depends on claim 60. However, claim 60 recites the limitation "reduces the size of the second packet preceding the synchronization second packet" in lines 16-17. It is unclear whether "the modified size of the preceding second packet" in claim 4 is the same as the reduced size of the second packet preceding the synchronization second packet in claim 60.

Claim 29 recites the limitation "the basic network" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 29 recites the limitation "the association" in line 8. There is insufficient antecedent basis for this limitation in the claim.

Claim 29 recites the limitation "the formation" in line 11. There is insufficient antecedent basis for this limitation in the claim.

Claim 29 recites the limitation "means for the formation of each second packet by including one or more first packet or parts of a first packet associated with a given access level in the second packet" in lines 11-15. In the case where there are multiple first packets each with different access level, it is unclear how "a given access level in the second packet" is given, since line 8 recites the limitation "association of an access level with **each first packet...**"

Claim 29 recites the limitation "the insertion" in line 16. There is insufficient antecedent basis for this limitation in the claim.

Claim 29 recites the limitation "the same access level" in line 17. It is unclear what access level it is referring to.

Claim 29 recites the limitation "the detection" in line 20. There is insufficient antecedent basis for this limitation in the claim.

Claim 29 recites the limitation "the transmission" in line 28. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 60, 4, 7-8, 10, 15, 29, 32, 35-36, 38, 42-44, and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kato et al. (US 6,618,549 B1, hereinafter Kato), and in view of Eschholz (US 6,278,718, hereinafter Eschholz).

Regarding claim 60, Kato discloses a method for the insertion of broadcast control information for the control of the broadcasting of a data stream in a heterogeneous network, the heterogeneous network including at least one entry sub-network conveying first packets and a basic network conveying second packets, the entry sub-network being connected to the basic network by an entry node configured to form the second packets from at least part of at least one first packet, wherein the entry node performs a method comprising the steps of:

- receiving first packets from the entry sub-network [14 FIG. 1, col. 5, lines 41-47, transport packet];

- associating an access level with each first packet from a plurality of access levels according to a predetermined policy [13, 14 FIG. 1, col. 5, lines 48-55, "copy prohibited", "copy once" and "copy free"];

- forming each second packet by including one or more first packets or parts of a first packet associated with a given access level in the second packet [14 FIG. 1, col. 5 line 56 through col. 6 line 1, isochronous packets], and inserting broadcast control information corresponding to the given access level into each second packet [13, 14 FIG. 1, col. 5 line 65 through col. 6 line 1; col. 8 line 66 through col. 9 line 35, EMI added to 1394 header]; and

- transmitting the second packets formed in the forming step into the basic network [5 FIG. 1, col. 6 lines 1-3],

- wherein, if the access level changes between successive first packets of the data stream, the entry node (a) forms a synchronization second packet by

inserting a synchronization marker in a second packet [source packet FIGs. 3, 4; col. 6, lines 51-60; sync byte FIG. 4, col. 2 line 66 through col. 3 line 17], and (b) modifies the size of each second packet preceding one of the synchronization second packets [FIG. 4 and col. 9, lines 4-14].

Kato discloses the claimed invention except for reducing the size of the second packet preceding the synchronization second packet such that the start of the payload information of the synchronization second packet corresponds to the start of a first packet associated with the new access level. Eschholz disclose forming a synchronization second packet such that the beginning of the payload information of the synchronization second packet corresponds to the beginning of the first packet (abstract and col. 4, lines 1-20, "A frame synchronization subsystem, implemented in a designated master node, guarantees that a frame is released at the beginning of an independently-determined frame regardless of network latency"). Kato further discloses wherein the entry node modifies the size of each second packet preceding one of the synchronization second packets [FIG. 4 and col. 9, lines 4-14]. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to incorporate Eschholz' teaching into Kato's method for the purpose of supporting the transmission of synchronous data and compensating for differences between source and destination nodes' clocks by reducing the size of the second packet preceding the synchronization second packet such that the

start of the payload information of the synchronization second packet corresponds to the start of a first packet associated with the new access level, thereby avoiding loss of data and excessive delays in the transmission of information across the network.

Regarding claim 4, Kato further discloses wherein the entry node modifies the size of the synchronization second packet, so that the sum of the modified size of the preceding second packet and the modified size of the synchronization second packet is equal to the normal size of a second packet [col. 6, lines 33-60].

Regarding claim 7, Kato further discloses wherein, at each change in access level, the entry node also inserts an access level change marker into the synchronization second packet [col. 1, lines 55-63].

Regarding claim 8, Kato further discloses wherein the association of an access level with each first packet is based upon restriction on the use of the data stream and wherein the access level comprises use restriction information [col. 5, lines 52-55].

Regarding claim 10, Kato further discloses wherein the association of an access level with each first packet is based on the use of a plurality of pieces of control information that can be contained in the first packets, and wherein the entry node:

- (a) obtains at least one piece of control information, from among the plurality of pieces of control information, contained in a given first packet [col. 3, lines 44-53]; and

(b) associates one of the access levels with the given first packet as a function of said at least one piece of control information obtained [col. 3, lines 54-63].

Regarding claim 15, Kato further discloses wherein the data stream is transmitted by an entry terminal and wherein the entry terminal is integrated into the entry node and the entry node directly generates the data stream in the form of first packets [Integrated Recorder/Decoder 1 FIG. 1 and col. 5 line 30 through col. 6 line 3].

Regarding claim 29, Kato discloses an entry node for the insertion of broadcast control information for the control of the broadcasting of a data stream transmitted in a heterogeneous network, the heterogeneous network including at least one entry sub-network conveying first packets and the basic network conveying second packets, the entry node being connected to the basic network and to the entry sub-network, wherein the entry node comprises:

means for receiving first packets from the entry sub-network [14 FIG. 1, col. 5, lines 41-47, transport packet];

means for the association of an access level with each first packet from among a plurality of access levels according to a predetermined policy [13, 14 FIG. 1, col. 5, lines 48-55, "copy prohibited", "copy once" and "copy free"];

means for the formation of each second packet by including one or more first packet or parts of a first packet associated with a given access level in

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the second packet [14 FIG. 1, col. 5 line 56 through col. 6 line 1, isochronous packets];

means for the insertion, into each second packet, of broadcast control information corresponding to the same access level [13, 14 FIG. 1, col. 5 line 65 through col. 6 line 1; col. 8 line 66 through col. 9 line 35, EMI added to 1394 header];

means for the detection of a change in access level between a first packet associated with a previous access level and another first packet associated with a new access level [col. 1, lines 55-63];

means configured to form a synchronization second packet by inserting a synchronization marker in a second packet [source packet FIGs. 3, 4; col. 6, lines 51-60; sync byte FIG. 4, col. 2 line 66 through col. 3 line 17]; and

means for the transmission of second packets into the basic network [5 FIG. 1, col. 6 lines 1-3].

Kato discloses the claimed invention except for reducing the size of the second packet preceding the synchronization second packet such that the start of the payload information of the synchronization second packet corresponds to the start of a first packet associated with the new access level. Eschholz disclose forming a synchronization second packet such that the beginning of the payload information of the synchronization second packet corresponds to the beginning of the first packet (abstract and col. 4, lines 1-20, "A frame

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synchronization subsystem, implemented in a designated master node, guarantees that a frame is released at the beginning of an independently-determined frame regardless of network latency"). Kato further discloses wherein the entry node modifies the size of each second packet preceding one of the synchronization second packets [FIG. 4 and col. 9, lines 4-14]. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to incorporate Eschholz' teaching into Kato's method for the purpose of supporting the transmission of synchronous data and compensating for differences between source and destination nodes' clocks by reducing the size of the second packet preceding the synchronization second packet such that the start of the payload information of the synchronization second packet corresponds to the start of a first packet associated with the new access level, thereby avoiding loss of data and excessive delays in the transmission of information across the network.

Regarding claim 32, Kato further discloses means configured to modify the size of the synchronization second packet, so that the sum of the modified size of the preceding second packet and the modified size of the synchronization second packet is equal to the normal size of a second packet [col. 6, lines 33-60].

Regarding claim 35, Kato further discloses means for the insertion, at each change in access level, of an access level change marker into the synchronization second packet [col. 1, lines 55-63].

Regarding claim 36, Kato further discloses wherein the policy of association of an access level with each first packet is based upon restriction on the use of the data stream and wherein the access level comprises use restriction information [col. 5, lines 52-55].

Regarding claim 38, Kato further discloses wherein the policy of associating an access level with each first packet is based on the use of a plurality of pieces of control information that can be contained in the first packets, and wherein the entry node comprises:

(a) means for obtaining at least one piece of control information, from among the plurality of pieces of control information, contained in a given first packet [col. 3, lines 44-53]; and

(b) means for associating one of the access levels with the given first packet as a function of said at least one piece of control information obtained [col. 3, lines 54-63].

Regarding claim 42, Kato further discloses wherein the heterogeneous network is a home audiovisual network [FIG. 1 and col. 5, lines 30-47].

Regarding claim 43, Kato further discloses wherein the first packets are IEEE 1394 type packets [col. 1, lines 26-32].

Regarding claim 44, Kato further discloses wherein the basic network is a switched network [col. 11, lines 14-28].

Claim 58 is of the same scope as claim 29. It is rejected for the same reason as for claim 29.

10. Claims 9, 11, 37, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kato and Eschholz as applied to claim 60, and in view of Kwoh et al. (US 6,115,057, hereinafter Kwoh).

Regarding claim 9, Kato and Eschholz disclose the claimed invention except for wherein the policy of association of an access level with each first packet is based on the use of a plurality of time slots, and wherein the entry node: (a) obtains the time slot, among the plurality of time slots, that includes the instant of processing, by the entry node, of the given first packet; (b) associates one of the access levels with the first packet as a function of the time slot obtained. Kwoh discloses a method of parental control of viewing of a program by date, time-of-the-day and length [col. 5, lines 14-20]. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate Kwoh's idea into Kato's and Eschholz' method for the purpose of controlling children viewing time by using time slots together with access level, thereby providing a parent the broad control desirable for controlling the viewing or use of a television by a child [see Kwoh col. 1, lines 54-57].

Claim 11 is a combination of claim 9 and 10. It is rejected for the same reasons as for claim 9 and 10.

Regarding claim 37, Kato and Eschholz disclose the claimed invention except for wherein the policy of association of an access level with each first packet is

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based on the use of a plurality of time slots, and wherein the entry node comprises: (a) means for obtaining the time slot, among the plurality of time slots, that includes the instant of processing, by the entry node, of the given first packet; (b) means for associating one of the access levels with the first packet as a function of the time slot obtained. Kwoh discloses an apparatus of parental control of viewing of a program by date, time-of-the-day and length [col. 5, lines 14-20]. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate Kwoh's idea into Kato's and Eschholz' system for the purpose of controlling children viewing time by using time slots together with access level, thereby providing a parent the broad control desirable for controlling the viewing or use of a television by a child [see Kwoh col. 1, lines 54-57].

Claim 39 is a combination of claim 37 and 38. It is rejected for the same reasons as for claim 37 and 38.

11. Claims 12-14 and 40-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kato and Eschholz as applied to claim 60, and in view of Applicant's admitted prior art ("AAPA").

Regarding claim 12, Kato and Eschholz disclose the claimed invention except for wherein the data stream is transmitted by an entry terminal and wherein the entry terminal is a digital type of terminal connected to the entry sub-network and directly generating the data stream in the form of first packets. AAPA discloses that the entry terminal is a digital type of terminal, connected to the entry node

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through a digital bus (entry sub-network). It directly generates the data stream in the form of first IEEE 1394 packets [see Applicant's specification, page 3, lines 16-18]. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate AAPA into Kato's and Eschholz' method for the purpose of directly generating the data stream in the form of first packets by using a digital type of terminal, thereby providing faster transmission of the data stream.

Regarding claim 13, Kato and Eschholz disclose the claimed invention except for wherein the data stream is transmitted by an entry terminal and wherein the entry terminal is an analog type terminal, connected to the entry sub-network by means of an independent adapter enabling the conversion, into first packets, of the data stream generated in the form of analog signals by the entry terminal. AAPA discloses that the entry terminal is an analog type terminal, connected to an independent adapter, which is itself connected to the entry node through a digital bus (entry sub-network). The adapter enables the conversion, into first IEEE 1394 packets, of the data stream generated in the form of analog signals by the entry terminal [see Applicant's specification, page 3, lines 19-23].

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate AAPA into Kato's and Eschholz' method for the purpose of re-using existing equipments by using an analog type of terminal, thereby saving cost in the network.

Regarding claim 14, Kato and Eschholz disclose the claimed invention except for wherein the data stream is transmitted by an entry terminal and wherein the entry terminal is an analog type terminal directly connected to the entry node and wherein the entry node integrates an adapter enabling the conversion, into first packets, of the data stream generated in the form of analog signals by the entry terminal. AAPA discloses that the entry terminal is an analog type terminal directly connected to the entry node. This node integrates an adapter [see Applicant's specification, page 3, lines 24-25]. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate AAPA into Kato's and Eschholz' method for the purpose of re-using existing equipments by using an analog type of terminal directly connected to the entry node, thereby saving cost in the network.

Regarding claim 40, Kato and Eschholz disclose the claimed invention except for wherein the entry node is directly connected to a entry terminal of analog type , which transmits the data stream and wherein the entry node integrates an adapter enabling the conversion, into first packets, of the data stream generated in the form of analog signals by the entry terminal. AAPA discloses that the entry terminal is an analog type terminal directly connected to the entry node. This node integrates an adapter [see Applicant's specification, page 3, lines 24-25]. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate AAPA into Kato's and Eschholz' method

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for the purpose of re-using existing equipments by using an analog type of terminal directly connected to the entry node, thereby saving cost in the network.

Regarding claim 41, Kato and Eschholz disclose the claimed invention except for wherein the entry node comprises an entry terminal, which transmits the data stream and wherein the entry node comprises means for the direct generation of the data stream in the form of first packets. AAPA discloses that the entry terminal is a digital type of terminal, connected to the entry node through a digital bus (entry sub-network). It directly generates the data stream in the form of first IEEE 1394 packets [see Applicant's specification, page 3, lines 16-18].

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate AAPA into Kato's and Eschholz' method for the purpose of directly generating the data stream in the form of first packets by using a digital type of terminal, thereby providing faster transmission of the data stream.

Allowable Subject Matter

12. Claims 5-6 and 33-34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant is reminded that in amending in response to a rejection of claims, the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objection made.

Applicant must show how the amendments avoid such references and objections. See 37 CFR 1.111(c).

15. Saito et al., US Patent Number 6,751,221 B1, has taught a data transmitting node and a network inter-connection node suitable for use in the home network environment.

16. Shippy et al., US 2005/0254645 A1, has taught a method and system for safeguarding data between a device driver and a device.

Examiner's Note: Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Lai whose telephone number is (571) 270-3236. The examiner can normally be reached on M-F 8:30 - 5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michael C. Lai
18MAY2009

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